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The Domestic Intelligence Report

The activities of the Bureau are to be limited strictly to investigations of violations of law, under my direction or under the direction of an Assistant Attorney General.

—Attorney General Harlan Fiske Stone to J. Edgar Hoover, 1924

THAT ORDER, issued when the FBI was new, summed up the original concept of the bureau as a tightly supervised agency concerned only with illegal conduct. It is a long way from there to the notion expressed in an internal FBI directive in 1966: "We are an intelligence agency, and as such are expected to know what is going on or is likely to happen." How that evolution occurred, and at what enormous cost to civil liberties and lawful government, have been carefully documented in the Senate select committee's final report on domestic intelligence activities.

The committee has added many details—some fascinating in a morbid way, almost all to one degree or another frightening—to earlier disclosures about improper and intrusive operations such as the FBI's COINTEL program, the bureau's indecent campaign against Dr. Martin Luther King Jr., the Army's spying on civilians, and the domestic intelligence programs of the CIA and IRS. More important, the report puts these abuses and excesses in perspective and shows how they accumulated during three decades of national tension and strains, from the pre-war anxieties of the 1930s to the civil disorders, anti-war protests and campus unrest of the 1960s and early 1970s.

Any such review necessarily focuses on the growth of the FBI's power and autonomy during J. Edgar Hoover's 48-year reign. The report shows, however, that the same autocratic and bureaucratic tendencies infected virtually all attempts to gather domestic intelligence. Time and again, programs were defined in vague, sweeping terms, so that agencies believed their mission was to watch, infiltrate and sometimes disrupt any group or activity they regarded as potentially "subversive" or dangerous. Illegal and improper techniques—warrantless wiretapping and bugging, mail opening, burglaries, harassment, provocations—were used with little or no regard for the constraints of law—not to mention elemental decency. Instead of concentrating on the actions of a few carefully chosen suspects, agencies amassed reams of information on the lives and opinions of countless individuals not charged with or suspected of any crime. The search for conspiracies, extremists and alien influences became obsessive; in a typical case, FBI headquarters told a field office to continue investigating a civil rights leader in 1964 because "while there may not be any evidence that ——— is a Communist neither is there any substantial evidence that he is anti-Communist."

The committee's most devastating findings involve the performance of the top officials who were supposed to exercise command and control. Every President from Franklin Roosevelt to Richard Nixon ordered or accepted political intelligence from the FBI. Until 1973, no chief executive or Attorney General seems to have made serious attempts to rein in the burgeoning surveillance operations of the government. On the contrary, President Johnson in particular encouraged an intensive hunt for "foreign influences" on anti-war activists (including U.S. senators), while the Johnson administration's desire for better intelligence about potential civil disorders fostered the most indiscriminate domestic spying in the nation's history.

Congress must bear equal responsibility for the abuses that occurred. Most legislators over the years showed little curiosity and less concern; oversight was largely left to friendly committees who were not inclined to embarrass or check the agencies involved, especially the FBI.

All of this might suggest that domestic intelligence operations are so susceptible to abuse that the best way to safeguard civil liberties would be to ban such activities entirely and return to Attorney General Stone's standard that federal agencies should only investigate violations of law. FBI Director Clarence Kelley and others maintain that such a policy would leave the nation vulnerable to subversion or violent attack. Indeed, the problem is to weigh those risks—which are vague and problematical, but not entirely dismissable on that account—against the demonstrated dangers to civil liberties of permitting investigations not tightly tied to crimes.

For the Senate committee, the answer lies in a legislative charter for a very narrow range of domestic intelligence activities by a single agency, the FBI, under close supervision by the Justice Department and the Congress. The committee's proposals are even more restrictive than those developed by Attorney General Levi. Enacting any such code—or even insuring adequate congressional oversight—will not be easy, as the current controversy over a permanent Senate intelligence committee shows. Yet if the searing record of the past 40 years has established anything, it is that any agency empowered to probe into Americans' lives and activities must, first, be governed by explicit law. And, second, it must be subject to constant, informed scrutiny, so that citizens will be safe in the exercise of their rights and free to enjoy their liberties without surveillance or harassment by their government.